UNITED
NATIONS

E

Economic and Social
Council

Distr.
GENERAL

E/CN.4/2000/73/Add.1
22 December 1999

Original: ENGLISH

COMMISSION ON HUMAN RIGHTS
Fifty-sixth session
Item 13 of the provisional agenda

RIGHTS OF THE CHILD

Report of the Special Rapporteur on the sale of children, child prostitution and child pornography, Ms. Ofelia Calcetas-Santos

Addendum

Report on the mission of the Special Rapporteur to Belgium and the Netherlands on the issue of commercial sexual exploitation of children

(30 November-4 December 1998)

GE.99-16535 (E)

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Introduction

1. At the invitation of the respective Governments, the Special Rapporteur on the sale of children, child prostitution and child pornography visited Belgium and the Netherlands, from 30 November to 4 December 1998, to study the issue of commercial sexual exploitation of children.

2. The Special Rapporteur would like to take this opportunity to express her appreciation of the cooperation and assistance extended to her by the Governments of Belgium and of the Netherlands, enabling her to meet with both governmental and non-governmental organizations, and to obtain the necessary information and documentation to be able to report to the Commission on Human Rights in an objective and impartial manner.

3. During her visit to Belgium, the Special Rapporteur met with members of the Flemish and the French parliaments, and of the Justice Committee, with the Minister for Foreign Affairs, the Minister of Justice, the Flemish Minister for Social Welfare and Culture, the French Commissioner for Children's Rights, the State Secretary for Development Cooperation, the General Commissioner for Refugees, representatives of the Centre for Equal Opportunities and Opposition to Racism, as well as representatives of non-governmental organizations (NGOs).

4. During her visit to the Netherlands, the Special Rapporteur met with representatives of the Ministry of Foreign Affairs and the Ministry of Justice, with representatives of the Amsterdam police Juvenile Advice Squad, with academic and medical professionals, and with representatives of NGOs.

5. A selective list of persons with whom the Special Rapporteur met during her mission is annexed to the present report.

6. The Special Rapporteur chose to visit Belgium and the Netherlands following the high-profile arrest in Belgium in 1996 of a man allegedly responsible for the kidnap, rape and murder of several children. Subsequent allegations suggested that he acted as part of an organized international paedophilia ring. Ironically, the arrest and the massive media attention which went with it occurred just a few days prior to the opening of the World Congress on Commercial Sexual Exploitation of Children, held in Stockholm.

7. Two years later, in 1998, attention was again focused on the region when a predominantly European paedophile network called "W0nderland" operating over the Internet was uncovered by British-led police "Operation Cathedral". Simultaneous police raids on 100 suspected members were carried out in several countries, including Belgium. One investigator reported that in order to gain membership of "W0nderland", individuals had to demonstrate that they possessed at least 10,000 images of child pornography.

8. These events did much to raise international public awareness that the abuse of children through organized paedophilia can no longer be assumed to be a problem primarily faced by the countries of south-east Asia, or to have a direct correlation with situations of extreme poverty.

9. During the mission, little new information was made available to the Special Rapporteur regarding these charges of murder and paedophilia, as the trials of the accused were still pending.[1] However, one unexpected outcome of the mission was the indication of the alarming extent to which both Belgium and the Netherlands have become transit points and receiving countries for victims of trafficking.

BELGIUM

I. GENERAL BACKGROUND

10. In August 1996, two girls were found alive in the house owned by Marc Dutroux, who had been arrested a few days earlier in connection with the disappearance of another girl. The bodies of two other young girls, who had starved to death when Dutroux was in police custody early in 1996, were uncovered in the backyard of his house. The authorities then revealed that Dutroux had been released in 1992 after serving only 3 years of a 13-year sentence for the rape of several other female children. Police had actually visited Dutroux's house while the girls were being held there and had not intervened even though they had been informed in 1993 that Dutroux had been building cells in his home, allegedly to hold girls before sending them overseas.

11. Eventually 10 suspects were arrested in connection with the abductions and murders of the children, including a police officer who was alleged to have protected the paedophile ring. A parliamentary commission was established to investigate allegations of corruption and complicity in the law enforcement and judicial systems.

12. The horrific circumstances surrounding the arrest of Dutroux have had some positive effects in Belgium. All sectors of Belgian society have been mobilized into rethinking many issues concerning the protection of children, and a public outcry over the handling of the case resulted in demands for drastic changes to be made.

13. The most visible facet of this public outcry was the "White March" on 20 October 1996, when over 300,000 people took to the streets in protest at these events, demanding that the Government take immediate measures to implement change. One such measure was the creation of Child Focus, a centre mandated to actively support both the investigation of children reported missing or abducted and cases of sexual exploitation of children.

A. Sale of children

14. The sale of children in Belgium is closely linked to the disturbing profusion of trafficking of persons into and through Belgium. A large percentage of such victims are girls and young women from eastern Europe, trafficked for the purposes of prostitution, often under the guise of being refugees. The Special Rapporteur was also informed about an apparently new basis for trafficking - that of boys being brought from African countries for the purposes of professional sport, namely football.

15. There are allegations that unofficial talent scouts and recruiters bring talented boy players from countries in Africa, notably Nigeria, as it is considered to be cheaper to recruit amateur

players from a developing country than to train local players. Once in Belgium, the boys are taken from one football club to another. The recruiter presumably makes a considerable profit if the boys are taken on by a club. If the boys are unsuccessful, they are usually abandoned. Having come into the country illegally, few legal options for their future in Belgium are then available to them. One non-governmental organization, Pag-Asa, informed the Special Rapporteur about a case involving a talented young Ethiopian footballer who had been trafficked to Belgium. Assisted by Pag-Asa, he had brought a case against his trafficker. The decision on his case was pending at the time of the visit.

16. No further details concerning the trafficking of football players were available to the Special Rapporteur. In her report to the Commission on Human Rights in 1999,[2] which focused upon the trafficking of children, she made a brief reference to the situation of boys being trafficked for use as football players. This immediately became the main focus of interest in her report, with many requests from the media for further, unfortunately unavailable, details. The Special Rapporteur concludes that this is a largely unknown and perhaps very new violation of child rights and she would urge Governments and non-governmental organizations working for the protection of children and migrants to examine whether this phenomenon exists in other countries and if so, what measures are being taken to combat it.

B. Child prostitution

17. The Special Rapporteur received information on four different aspects of child prostitution.

1. Prostitution of refugee children

18. The Special Rapporteur met with the General Commissioner for Refugees, who confirmed that the trafficking of women and children for prostitution, under the guise of their being refugees, is a serious problem in Belgium. He informed her of the ways in which a system designed to provide protection for those escaping persecution in their home countries is being abused, in many cases leading to the further suffering of victims. The extent of this problem was confirmed by both the governmental and non-governmental sectors.

19. Legal immigration into Belgium was ended in 1994 and since that time the number of asylum-seekers has steadily increased. The Office of the General Commissioner for Refugees receives a monthly rate of approximately 2,800 asylum-seekers, most of whom are from eastern Europe and western Africa. In 1997, 1,146 of these asylum-seekers were unaccompanied minors, of whom 719 were male and 88 were children less than 10 years old. In the two-year period 1997-1998, the Office received 300 per cent more requests for political asylum than in the previous two-year period.

20. A large number of these claimants stated that they were from Kosovo, but it is suspected that many were actually from Albania and were brought through Italy into or through Belgium by highly organized trafficking networks. These networks took advantage of the volatile political situation in the Balkan region to make their victims claim asylum in Belgium or in third countries, including the United Kingdom and Canada.

21. According to information made available to the Special Rapporteur, it is mainly women and girls who are trafficked by such networks, whereas men and boys are more likely to come of their own volition. Some women and children arrive in Belgium having been tricked or kidnapped in their home countries. Sometimes girls follow their boyfriends out of their country of origin and are later forced into prostitution. One organization reported that children who are allegedly "unaccompanied" present themselves to the authorities to request asylum and are, in fact, under the close supervision of a member of the network, who instructs them how to act, what to say and that they must claim to be adult. There is also evidence to suggest that genuine asylum-seekers have similarly fallen prey to trafficking networks at some point during their journey to safety, and consequently end up in prostitution.

22. On their presenting themselves to the authorities, all asylum-seekers receive a temporary resident's permit while their cases are being decided. Having received the necessary paper, the children, usually girls in such cases, might be forced by their pimp to start prostituting themselves the very same day. Prostitution involving adults is not illegal in Belgium; hence, if the police see them on the streets once they have this temporary permit, it is difficult for the police to intervene, especially when they cannot ascertain the ages of the girls.

23. Those children who do not cooperate with the traffickers' and pimps' demands are forced into compliance by threats made against them and their families. One girl was intimidated when her pimp, who believed that she was collaborating with the police, forced her to listen while he called her father in Albania and threatened him. Usually other members of the network remain in the home towns. The parents of another young victim had their home in Tirana burnt down, shortly after their daughter had been taken from them.

24. The police recognize when a new network is operating in Belgium as there is a sudden influx of girls of the same nationality working on the streets in a certain area. In November 1998, the police apprehended 18 young women who they suspected were under-age and involved in prostitution. The girls were taken to shelters and their ages were ascertained through x-rays of their hands. It was discovered that eight of the girls were minors; all had come from Albania and were victims of a very strong and violent trafficking network which had operated through Milan, Italy. The girls were extremely afraid of the network and it took some time before any would admit that they had been trafficked.

25. Regrettably in such cases, once the girls are released from police custody they often go back to the networks. They have usually come from countries in which the police have a very poor image, and are extremely unlikely to trust the Belgian police, preferring instead to put their fate in the hands of those who coerced and intimidated them into such a destructive lifestyle.

26. Many women and girls who arrive in Belgium from West Africa are victims of trafficking networks, which may use fear of voodoo to put pressure on them to cooperate. Where eastern European girls use false identities to portray themselves as adults and hence avoid police intervention when they start to solicit, older West African girls pretend to be children in order to be allowed to remain in the country, relying on the international legal standards that must be satisfied before an unaccompanied child may be repatriated. Prior to the child's return,

a suitable care-giver in the country of origin must have agreed to take responsibility for the child.[3] Such women and girls arrive with documents which falsify their ages and their nationalities, most of them claim to be from Somalia or the Sudan.

27. After the intial request for asylum is made to the Office of the General Commissioner for Refugees, the first decision takes six months. The whole procedure may be drawn out for as long as two or three years, during which time the child can have earned a considerable amount of money for the traffickers or pimp who brought her to Belgium.

2. Prostitution of immigrant children

28. Belgium has a large immigrant population, which largely settles in districts with others of the same originating nationality. Brussels has Turkish, Moroccan and Tunisian quarters, among others.

29. A representative of a non-governmental organization, Adzon, which works mainly with male child prostitutes, informed the Special Rapporteur that of the homeless children it tries to help, 25 per cent are from eastern Europe and another 25 per cent are largely Moroccan, Turkish and Tunisian with a Belgian identity card. The majority of the male child prostitutes are from eastern Europe - especially the former Yugoslavia, Hungary and Romania, but it is unclear whether they are the children of immigrants or have entered Belgium as refugees. The remaining 50 per cent are Belgian children who have run away from home.

30. Immigrant children are not necessarily at greater risk of entering prostitution than Belgian children, since they are to a certain extent protected by the usually strong family links in the immigrant communities. However, these children face particular problems stemming from discrimination and marginalization. They also have to deal with the difficulties of growing up in two very different and sometimes opposing cultural environments - that of their homes and families, and that encountered every day in school and with their non-immigrant friends. In some cases, the children cannot reconcile their dual lifestyles, and the ensuing disputes cause them to run away from home. Such children, alone and feeling rejected, in need of money and a place to sleep, are particularly vulnerable to networks of local recruiters.

31. Networks recruiting the daughters of immigrants have been found to exist. The available information suggests that the networks usually consist of men of the same nationality, who appear to target girls of a certain nationality - rarely their own. One particular such network involved a group of young Turkish men, operating in the area of the Gard du Nord in Brussels, who recruited a number of young Albanian girls, most of whom had run away from home.

3. Prostitution of Belgian children

32. In a highly developed country such as Belgium, in which just 6 per cent of the population is living in poverty, entry into prostitution cannot be imputed to economic necessity. For those who become involved with some degree of "voluntariness", the causes are the same as those found throughout Europe and in other developed countries.

33. These causes include suffering violence and sexual abuse, or emotional neglect and indifference, in the home from a young age. The Special Rapporteur even received reports of children having been given by their parents to other members of the family or friends for the purpose of sexual abuse.

34. It is particularly difficult to assess the extent of child prostitution involving young children. Much of this type of abuse is hidden, taking place behind closed doors while the child is still living with his or her family, and most children feel too much guilt and shame to try to seek help.

35. Many children who suffer such abuse in the home run away around the age of 12 or 13. They often enter prostitution shortly afterwards in order to make some money while living on the streets, and often to recreate the abuse that they have suffered throughout their lives, in circumstances in which they have control over it.

36. Older children and teenagers are more likely to admit their involvement in prostitution. The majority of those being assisted by non-governmental organizations are aged between 15 and 18.

37. Despite the very different circumstances that lead these children, Belgian, immigrant or refugee, to live and work on the streets, many aspects of their future will be similar. Up to 70 per cent of them become addicted to cocaine, heroin, ecstasy, speed, or a mixture of these, and some become drug dealers to support their addiction. Other addictions include gambling, with estimates suggesting that up to 80 per cent of the children's earnings are spent in gambling halls. A large number of such halls appeared in Brussels in 1995, and have now replaced video parks as the main places for street children to hang out.

4. Child sex tourism involving Belgians

38. Belgium has responded to allegations that its nationals are involved in child sex tourism abroad. In 1995, Belgium enacted extra-territorial legislation to make it possible for Belgian nationals to be tried in Belgium for sex crimes committed abroad.

39. Several Belgian men have been tried under this law. In one case, a man was prosecuted in a Belgian court who had visited Thailand for the purpose of sexually abusing children twice a year, for three weeks at a time, over a period of several years. He claimed that these weeks every year helped him not to abuse Belgian children.

40. Another man was arrested in Sri Lanka after having been reported by the owner of the hotel in which he abused boys. He spent three weeks in jail before being released on bail. He fled the country and returned to Belgium, where he was arrested for possession of child pornography. The Sri Lankan authorities then sent the files of the case to Belgium, requesting that he be tried for his crimes in their country. At the time of the Special Rapporteur's visit, the case was about to be tried in Belgium.

41. Belgium has faced many difficulties in carrying out such prosecutions. A case illustrating some of the complexities and delays which hamper the effective use of

extra-territorial legislation involved a Belgian man accused of sexually abusing a child in Thailand in 1996. He was charged and imprisoned there, but escaped from jail and travelled back to Belgium through China. The Government of Thailand asked that he be brought to trial in Belgium, and sent the appointed Belgian judge a copy of the relevant laws - in the Thai language. Six months later an official translation into English was completed, by which time a new judge had taken over the case and needed the translation in Flemish.

42. During her visit, the Special Rapporteur met with the three National Magistrates of Belgium, whose positions were created to coordinate the prosecution of crimes which transcend international borders. Of particular interest to the Special Rapporteur is their work in cases of trafficking and abduction of children and in situations where Belgians are arrested abroad. The National Magistrates liaise closely with Ministries of Foreign Affairs, police and judicial bodies in other jurisdictions to seek a coordinated response to these and other crimes.

43. The Special Rapporteur commends the efforts that the Government is making to coordinate and carry out prosecutions involving extra-territorial elements, but would encourage a greater allocation of resources in this area in order to effect further development and refinement of the system of cooperation and to enhance information sharing between the countries concerned.

C. Child pornography

44. The non-governmental organization Adzon considered that children who are at risk of entry into prostitution are equally at risk of becoming involved in pornography, but are less likely to admit to their involvement in it. Boys appear to be at a greater risk than girls.

45. In 1996, Adzon assisted 14 boys aged between 9 and 14 years of age who had been used in the creation of pornography in a van parked in a public car park. A group of men, which included a policeman, had offered the boys money to allow themselves to be photographed naked.

46. In 1997, Adzon provided counselling to approximately 25 boys who had been used in pornography, and believes that it is usually done through an organized network. One boy being assisted by Adzon had been psychologically damaged by the photographic documentation of his abuse, which happened when he was very young. He became an exhibitionist at the age of six, and for 10 years regularly showed himself naked when in stressful situations.

47. Several organizations and individuals expressed their concerns to the Special Rapporteur about the dangers of the Internet with respect to child pornography. The allegations in the Dutroux and "WOnderland" enquiries furthered suspicions that several paedophile rings are operating in Belgium, trading and posting pornographic pictures of children on the Internet, and using the electronic superhighway to share information with other paedophiles and assist them in finding children to abuse.

48. Several universities in Belgium, in conjunction with the Global Network to End Child Prostitution, Child Pornography and Trafficking (ECPAT) are actively scanning the Internet to trace and have removed pornographic sites involving children.

II. LEGAL FRAMEWORK

49. The Convention on the Rights of the Child entered into force in Belgium on 15 January 1992 and the initial report[4] was submitted to the Committee on the Rights of the Child in 1994. The Committee expressed its appreciation of the open, self-critical and very comprehensive report submitted by the Government of Belgium. The Committee particularly appreciated the adoption of a comprehensive legal framework intended to ensure full conformity with the Convention, and the adoption of legislation extending the national jurisdiction in cases of child prostitution and child pornography, to allow the State to prosecute any person accused of child sex tourism.

50. This legislation comprised three laws, which entered into force in April 1995. One of these, the 13 April 1995 Act, includes provisions for combating traffic in persons, child prostitution, child pornography and child sex tourism.

51. The legislation against child prostitution provides that the younger the child against whom the abuse has been committed, the greater the penalty to be imposed on the abuser. Where children are under 16, the penalty for offences "against morality in order to satisfy passions of others by exciting, promoting or facilitating vice, corruption or prostitution of minors" is between 10 and 15 years' imprisonment. Where the children are under 10 years of age, the sentence is increased to between 15 and 20 years.

52. Child pornography is now penalized with imprisonment for "each person who exhibits, sells, rents, distributes or imports visual material ... involving children under 16". The apparent consent of the minor is not relevant.

53. The Special Rapporteur welcomes the introduction of this legislation but notes with concern that children between the ages of 16 and 18 are not covered by its provisions and would recommend that measures be taken to extend the ambit of the legislation in order to provide protection to children in this age group.

54. The Special Rapporteur particularly welcomes the broad extra-territoriality provisions of the 13 April 1995 Act. In accordance with the Act, "a Belgian national or foreigner (whether settled there or just passing through) who is found in Belgium can be prosecuted for sexual crimes committed abroad against minors under 16. Prosecution of such crimes does not depend on a complaint or an official communication from the foreign authorities".

55. However, she would reiterate her recommendation that further efforts be made to explore ways in which to minimize some of the difficulties that are being faced by prosecutors in cases involving issues of extra-territoriality. As the enactment of such legislation with regard to child sex crimes is in its infancy in all countries concerned, the many logistical difficulties have not yet been adequately resolved and a number of prosecutions have been defeated as a result.

56. The 13 April 1995 Act also provides that, in certain legal disputes, associations can be entitled to become a party to the legal proceedings. This provision allows non-governmental organizations to play an active role and in some cases to complete legal action undertaken by the authorities.

57. The Committee on the Rights of the Child, in examining the initial report had expressed concerns over the application of the law and policy concerning children seeking asylum, including unaccompanied children. The Special Rapporteur concurs with the finding of the Committee that unaccompanied minors who have had their asylum request rejected, but who can remain in the country until they are 18 years old, may be deprived of an identity and denied the full enjoyment of their rights, especially in the areas of health care and education. As outlined above, whether or not such children are genuine asylum seekers or victims of an organized network, they are particularly vulnerable to exploitation and subsequent criminalization, and should be the subject of special protection.

58. The Special Rapporteur welcomes an initiative of the Government to examine the effect upon children of new legislation. The momentum generated by the Dutroux affair helped to turn the idea of the "Child effect" law into a reality and involves the assignment of each Minister to review new legislative propositions and to report on their likely effect upon children. All propositions are thus reviewed, whether or not they obviously concern children. The "Child effect" report on the proposition is then presented to and used by Parliament during the review of the legislation prior to its adoption.

III. THE GOVERNMENT

59. Belgium is a federal State, divided linguistically into three communities. The Flemish and the French Communities each occupy approximately 45 per cent of the land area of Belgium. The German-language community occupies a small area to the far east of the country comprising less than 10 per cent of the land area. Belgium is also divided geographically, into the Flemish, the Brussels-Capital and the Walloon Regions. The French and German-language Communities occupy the Walloon Region.

60. Certain powers are delegated to the Communities and to the Regions, such as the responsibility of the Communities for cultural affairs and education, and that of the Regions for administrative supervision, employment and public works.

61. Since 1993, the Communities and Regions have been responsible for their own foreign policy, including the conclusion of international treaties in areas for which they are competent at the national level. However, the Minister for Foreign Affairs determines the general outline of foreign policy, and coordinates different international initiatives of the Communities and Regions.

62. The Special Rapporteur met with the Flemish Commissioner on Children's Rights whose role is to bring the problems faced by the nation's children to Parliament. She can act upon anything that involves children's issues and can investigate individual cases if it appears that the legal system may be failing the child. However, her involvement ends if the case goes to court.

63. The Flemish Commissioner is closely involved with the parliamentary reviews of the "Child effect" reports on legislative proposals and she informed the Special Rapporteur that these reports have led to a raising of the profile of children's issues throughout the welfare system. Many professionals working in affected departments are unaware of the provisions of the Convention on the Rights of the Child and the Commissioner's work has involved educating adults in this regard.

64. The Commissioner has established projects with the Communities to develop Children's Community Councils, through which children from different schools are brought together to discuss common concerns which can then be raised at the Community level.

65. The Special Rapporteur also met with the French Commissioner on Children's Rights, who reported that he works with individual cases to a much greater extent than his Flemish counterpart. When he receives information that a child has been abused, he can request individuals or agencies to supply him with information about the case. He has access to the judicial authorities and regularly visits children who are detained in an institution.

66. If the Commissioner receives a complaint from or on behalf of a child of maltreatment within the family, he tries to mediate between the family members and the child to reach a durable solution without subjecting the child to the legal process. In 1997, he dealt with 1,713 children, 40 per cent of whom had suffered physical or sexual abuse. Thirty per cent of the children had suffered maltreatment which was directly connected to the divorce of their parents.

67. The French Commissioner for Children's Rights also advised the Special Rapporteur that he is coordinating efforts to disseminate knowledge of the Convention on the Rights of the Child to all sectors of the French-language Community. In 1998, 18,000 copies of a booklet for use in schools and other educational institutions, entitled "Protection of the Rights of the Child" was distributed throughout the Community. A brochure designed to educate parents and professionals about the provisions of the Convention has also been disseminated.

68. The widespread advertising of a telephone hotline "Ecoute enfants" where children can ring in and report abuse or merely talk to a trained counsellor has contributed to raising awareness about child abuse throughout the French-language Community. The number is an easy one for a child to remember, calls are free and children can call at any time.

69. The Special Rapporteur visited the Centre for Equal Opportunities and Opposition to Racism, a public independent service funded by the Government. It has a mandate to combat all forms of xenophobia, an anathema which the Special Rapporteur considers particularly contributes to the marginalization of certain groups of children.

70. The Centre promotes anti-racist policies, observes migration policies, monitors refugee situations and has a specific mission to investigate trafficking of persons in and out of Belgium. The Centre can intervene in investigations where it has information on specific cases. The work of the Centre most specifically related to children is the promotion of equality of opportunity, especially in education.

71. In schools, measures to combat racism include training programmes about cultural differences and integration. The Government has tried to encourage decentralization in school attendance, as it has been observed that certain schools attract a concentration of children of the same nationality. Public transport is provided free to children under the age of 12 to encourage their families to send them to schools other than the nearest.

72. The Special Rapporteur visited Child Focus, the centre established by the Government in response to public demands that measures be taken to strengthen the protection of children. The model for Child Focus was the US National Center for Missing and Exploited Children in Washington, but many parents and organizations were involved in devising its structure. This process took over one year to complete; the centre opened in March 1998.

73. Child Focus is an independent organization, but works in collaboration with official bodies. Its mandate is primarily to support the investigation of cases of missing children and to prevent sexual exploitation. It also fulfils the role of intermediary between official bodies and families. It does not, however, deal with cases of incest. In addition, Child Focus works to highlight inadequacies in the current legal regime for the protection of children and lobbies for change both in legislation and in public attitudes.

74. A hotline with trained operators and a system of contact persons are available 24 hours a day and provide an information-gathering and follow-up mechanism for cases brought to their attention.

75. At the time of the Special Rapporteur's visit, Child Focus had been in operation for nine months. The representatives with whom she met advised her of some of the difficulties that it had been facing. The media attention surrounding the creation of the centre has led to very high expectations of what it will achieve, and the centre has accordingly been under considerable pressure. One of the main hurdles to its effective operation is the inadequate flow of information concerning cases falling within its mandate. Despite the concluding of a protocol with the police, no automatic system of reporting cases of missing children to the centre had yet been established by the police, and the organization expressed its frustrations at having to fight to obtain such information.

IV. THE CRIMINAL JUSTICE SYSTEM

76. Following the Dutroux affair, the Ministry of Justice carried out an evaluation of the role of the police in the protection of the rights of the child. In particular, the Ministry issued a directive regarding the sensitive handling of cases of sexual exploitation to avoid the revictimization of the child. This directive was aimed at the police, prosecutors and those public services working directly with children.

77. At the time of the Special Rapporteur's visit, this directive and the protocol with Child Focus were in their first year of application and the Ministry of Justice considered that the effect of both with regard to any improvement in the quality of service provided to minors by the police could not yet be adequately evaluated.

78. The situation of the child in the justice system has been improved by the enactment of a legislative provision which entitles associations to become a party to legal proceedings.[5] This legislation has given organizations such as the Centre for Equal Opportunities and Opposition to Racism, Mouvement le Nid, Pag-Asa and Adzon a special mandate to act on behalf of the victims, taking the place of a child and representing him or her in court. This has proved important in cases involving children who have been victims of trafficking networks. The level of violence used by such networks has been extremely high in some cases and children wanting to bring a complaint have been subject to death threats.

79. One case which was brought by an organization resulted in the condemnation of several members of the Belgian Army for the abuse of Somali boys. A judge in Belgium accepted the case, despite the fact that the abuse had been carried out in Somalia and none of the children, who were still living in Somalia, had been involved in bringing the case against their abusers.

80. The non-governmental organizations with which the Special Rapporteur had meetings advised her that one of the major obstacles preventing many children from seeking a judicial remedy stems from the child's desire to remain an anonymous party to the proceedings. Adzon, whose assistance to boys includes navigating their path through the legal system as a victim or an offender, reported situations where the perpetrators had not been brought to trial because the boys, through fear or shame, refused to report them as they could not remain anonymous.

81. Even though child victims only have to give their testimony once since it is video-taped and the tape then used in the court proceedings, on that one occasion, the child has to divulge his identity.

82. Adzon reported that even adults are regularly too scared to give their names when wanting to denounce someone they are certain has abused a child. Adzon expressed its hopes that, in the future, anonymous reporting might become possible through forwarding the names of perpetrators to Child Focus.

83. The age of exemption from criminal responsibility has been raised from 16 to 18. Although the information available to the Special Rapporteur could not lead her to conclude that this had necessarily made children bolder in their criminality, it was clear that this age limit was being taken advantage of by those responsible for the abuse and exploitation of children. It was reported that there have been many cases where children apprehended as a result of their involvement in crimes such as theft, have then been discovered to be part of a criminal network using children to commit crimes for which older members of the network would be imprisoned.

84. Despite the exemption of children from criminal responsibility, it was reported to the Special Rapporteur that there is a small group of children for whom Belgium is obliged to have a prison. It was somewhat unclear on what grounds juvenile offenders could be incarcerated, given that the legislation has provided that those under 18 are incapable of committing criminal offences.

85. An area of particular concern to the Special Rapporteur is one element of the system of youth assistance which appears to be based on protection through incarceration.

86. This is particularly pertinent as regards children who have been trafficked into Belgium. The level of violence that has been used by trafficking networks has sometimes been extreme, particularly those bringing women and children out of Albania. The need to protect them has been offered as the justification for incarcerating such children in a closed institution.

87. The child is subject to possible incarceration if the following criteria are met: a child presents himself to the authorities to request asylum and there are suspicions that he or she is under the control of a trafficking network, or the police discover a child whom they consider is in danger. It is then necessary to obtain the child's consent in order to take him or her to an institution. If the child refuses to go, he or she is taken to a counsellor who will try to persuade him or her. If the child still refuses, then the case is taken to a judge to make a decision.

88. As well as being necessary for protection, it was explained to the Special Rapporteur that this period of incarceration serves to give the child time away from his or her trafficker or pimp, to break or loosen any emotional attachment that the child may feel towards that person and to attempt to bolster the confidence of the child in the Belgian justice system.

89. However, there is no special institution for such children, consequently they are housed in the same building as juvenile offenders, albeit in a different section. After the child has spent a period of time, usually a few weeks, in the closed facilities, he or she is transferred to a more open institution.

90. During the period of the child's incarceration, the Ministry of Social Welfare and Culture tries to locate his or her family in the child's homeland, usually in eastern Europe or Russia. The federal Government has responsibility for cases of trafficking and is charged with giving assistance prior to returning the child home. Usually the parents do not know where their child is, but in some cases it is the parents who sold the child to the trafficking network. If this is proved to be the case, the child is permitted to stay in Belgium and suitable foster parents are identified. In some cases, the child might be allowed to move to a third country.

91. Once a case is in court, victims of trafficking have the right to a temporary residence permit which enables them to look for paid employment. If they ask an organization for assistance with job training or to help them find work, the organization will receive funding from the Government for that purpose.

92. Most of the non-governmental organization representatives with whom the Special Rapporteur met felt that the system of incarceration was not a suitable response and did not adequately protect child refugees and minors involved in prostitution networks. One organization informed the Special Rapporteur about a centre in Bruges called "De Zande" which looks after children taken out of the prostitution circuit, but has facilities to accommodate just 10 children at any one time.

93. The Special Rapporteur agrees with the concerns of the non-governmental organizations that this system creates a very fine line between the juvenile delinquent and the child victim. She considers it essential that children who have been trafficked and are claiming asylum, and those who are being used in criminal activities, must under no circumstances be criminalized and that any measures taken for the protection of the child should not result in the punitive effect of deprivation of liberty.

94. The representatives of the Centre for Equal Opportunities and Opposition to Racism expressed their hopes that the Government would soon allocate adequate budgetary resources to create different approaches to this problem. Specifically, the Centre proposed the creation of a reception house for young unaccompanied non-Belgian people arriving in the country under various circumstances, whether legally or illegally, in order to remove them from their traffickers, to be better placed to learn the truth about their backgrounds and arrival in Belgium and to teach them basic attitudes and skills. However, the representatives of the Centre expressed doubt as to whether such a reception house would in fact be created, they felt that such a house would not be a high priority for the Government. Since, and despite its own establishment, the Centre had often confronted the government attitude that such children "are only Gypsies".

V. NON-GOVERNMENTAL ORGANIZATIONS

95. The Special Rapporteur met with representatives of four non-governmental organizations based in Brussels, Pag-Asa, Mouvement du Nid, ECPAT Belgium and Adzon. She received information about a number of other non-governmental organizations working in various parts of Belgium.

96. Some of the non-governmental organizations, which all receive a large part of their funding from the Government, reported that they had good collaboration with the police and with government agencies, even to the extent that, in certain cases, Ministers had sought their direct assistance when confronted with situations of child prostitution. Others reported a less cooperative rapport.

97. The majority of the clients, numbering 90 at the time of the visit, being assisted by Pag-Asa are girls who have been trafficked into Belgium, usually coming from the former Soviet bloc, former Yugoslavia and West Africa, especially Nigeria and Ghana. A large percentage of these have been sexually exploited by the time Pag-Asa comes into contact with them. The organization does not work with Belgian children.

98. Pag-Asa, started in 1995, offers guidance to young people in vulnerable situations. Some of its clients bring legal proceedings against their traffickers and need assistance with the legal process. Most of the clients are eligible to work, having received temporary residence permits, and the organization provides job training and assists the children to make decisions about their future.

99. Pag-Asa has a shelter house several kilometres outside of Brussels with facilities to accommodate 10 children. At the time of the Special Rapporteur's visit, its occupants were five Albanians, two Chinese, one Nigerian and a Moroccan. The Moroccan had escaped from the

home of a diplomat from an undisclosed Middle Eastern country, who had abused the child he had employed as a domestic worker. The Ethiopian victim of trafficking for football was also residing at the shelter whilst awaiting the outcome of the trial of his trafficker. The other 80 clients of Pag-Asa were living elsewhere in apartments rented for them with the assistance of the organization.

100. The representatives of Pag-Asa considered that there was room for a great deal of improvement in the collaboration between themselves and the police. Although they agreed that the police were vigilant in trying to ensure that minors were not openly prostituting themselves, they expressed concern that imprisoning girls for their own security was not a suitable response to the needs of the children concerned, and considered that resources should be allocated for the creation of many more shelter houses of the same type as the one they ran.

101. Mouvement du Nid, which works with Pag-Asa and is part of ECPAT, provides rehabilitation for young people who are trying to leave prostitution. It works with both Belgian and non-Belgian minors. It reported that most of the young people it assisted had entered prostitution between the ages of 12 and 14, and had come or been brought to Mouvement du Nid at the age of 16 or 17.

102. Mouvement du Nid runs workshops which are both part of the recovery and reintegration process and are designed to endow the child with certain skills and training. For example, it has workshops on second-hand chair repair and on the use of computers.

103. Adzon, started in 1991, provides assistance almost exclusively to boys, who make up 95 per cent of its clients. It is situated in the area of Brussels where boy prostitutes operate and reports that a large number of these boys are from eastern Europe, particularly the former Yugoslavia, Hungary and Romania.

104. It regularly has contact with over 300 young people, but assistance to them does not end when the child reaches 18. Although the average age of the clients is between 15 and 18, some are older, even up to age 30. Adzon reported that since the Dutroux affair, the age of children visible in prostitution has increased and it is now unusual to see a child under the age of 15 in suspicious circumstances. However, Adzon considers that prostitution involving younger children is now much better hidden, rather than reduced.

105. One of Adzon's activities is to provide a feeding station in its offices twice a week. There is a public feeding station located in the central railway station in Brussels which operates for half an hour each day, but Adzon operates in a different way. On each occasion one of the young people being assisted by Adzon is given money and takes responsibility for purchasing the food, cooking it, serving it to the other boys and cleaning up afterwards.

106. Adzon reported a high level of drug addiction amongst its clients. It regretted that there was no single organization to which an intoxicated child could be taken for help. Instead a child must go through a series of processes before he can be treated. In particular, Adzon recommended the creation of a facility that would treat addicts without asking questions relating to the legality of the child's presence in Belgium.

107. Adzon reported that it has experienced generally good collaboration between itself and the authorities and that the police ask Adzon to be involved when they discover networks involving young prostitutes.

THE NETHERLANDS

VI. GENERAL BACKGROUND

108. The Netherlands has traditionally had very liberal laws governing sexual activity. Since the 1960s, Amsterdam has been host to the largest sex industry in Europe. Prostitution of adults is legal, soliciting is carried out very openly and there is a high degree of organization in all aspects of what is seen as a trade. Until the 1980s, there were very few recorded cases of children being involved. These were usually boys who had run away from home, were working as "rent boys" and occasionally were involved in pornography.

109. During the 1980s, and as a result of the work of many international and non-governmental organizations in many different parts of the world to raise the profile of child rights generally, the authorities in many countries started to respond to particular problems they had previously either ignored or had not been aware of the existence of. An influx of foreign paedophiles fleeing the sometimes over-enthusiastic crackdowns in their own countries, came to Amsterdam and what had for many years been a tiny ad hoc "rent boy" industry, took on a new structure and developed into a large-scale organized paedophile venture.

110. In the early 1990s, following the collapse of Communism throughout Eastern Europe and the resultant opening up of borders, many women and children were trafficked to Western Europe. The growing prostitution market in Amsterdam, constantly needing new women, girls and boys to serve in its brothels, proved a strong magnet for the traffickers who delivered their victims to this market.

A. Sale of children

111. The sale of children in the context of the Netherlands is related largely to the other two concerns of the Special Rapporteur's mandate - child prostitution and child pornography.[6]

112. For many, the Dutroux affair confirmed suspicions that children are being bought, sold and trafficked for these purposes and that these activities are being carried out with some degree of organization throughout northern Europe. The Special Rapporteur was given information about a number of cases involving the disappearance of children in the 1990s. In 1994, 8-year-old Ken Heyrman and his 12-year-old sister disappeared near their home after having gone out to play football. Five weeks later the body of the girl was found - she had been raped and stabbed. The search for her brother made no progress until early in 1998, when an investigative journalist found a pornographic photograph of the boy, later positively identified by the children's mother, which had been posted on the Internet. To date Ken Heyrman has not been found.

113. Police in Amsterdam and other major cities in northern Europe have seized over 6,000 videos of child pornography in recent years. Interpol has estimated that over 30,000 active paedophiles are linked to the production and distribution of this material.

114. A paedophile ring has been described as "a criminal conspiracy to find children for sexual abuse. It is secretive, it is highly likely to cross national borders; it overlaps with other forms of criminality, such as the sale of drugs, but crucially, it is quite unlike other forms of international criminal conspiracy which have now become familiar, because a paedophile ring has no formal organization. There is no hierarchy, no boss figure, no internal discipline, no structure at all. It is a network, a shifting affiliation of men (and occasionally women), who link with each other and work together in an entirely opportunistic fashion." [7]

115. Of particular concern to the Special Rapporteur is the alarming number of children who go missing every year, both in the Netherlands and in surrounding countries, and the equally alarming large number of unsolved mysteries as to the identities of the children whose pictures can be found on pornographic Internet sites. It is not difficult to conclude the existence of a particularly evil commerce in this region.

B. Child prostitution

116. The manner of entry and involvement in prostitution of girls and boys appears to differ considerably according to the child's gender. In a modus operandi very similar to that seen in Belgium, young men from marginalized immigrant groups recruit girls into prostitution. The young, good-looking male, perhaps driving a fast car and otherwise giving the impression of wealth to a young and somewhat gullible teenage girl, will start a romance with her. He will slowly isolate her from her family and push her into a state of total emotional dependence upon him. He will then seduce her and later introduce her into prostitution, telling her that making money for him in this way will be a way for her to demonstrate her love for him. He will change his role from that of boyfriend to pimp, arranging her appointments, taking all the money that she earns and often threatening her family if she tries to return to them, or if they try to intervene. He will by this time have started to use physical violence against her and she will be kept in obeyance through a combination of love and fear.

117. One non-governmental organization with which the Special Rapporteur met, "Pretty Women" aims to diminish the number of girls in prostitution and looks for girls who are at risk of being recruited in this way. Girls with low self-esteem, those who did not receive love as a child, those who were abused, beaten and pushed into early sexual activity have all been identified as being particularly at risk. Sometimes even, the girls' brothers become their pimps.

118. The representative of "Pretty Women" explained that the NGO first tries to establish the trust of the girls by creating a safe environment for them where they are able to talk about what has happened to them, and then shows them the link between their previous trauma and their present situation. It has been found that when a girl recognizes and acknowledges the trauma of her past, she becomes less vulnerable. "Pretty Women" then tries to increase the girl's self-esteem and gives her practical help, such as assisting her to find a job or a training course.

119. "Pretty Women" runs several groups, such as an encounter group, a trauma group and a mother group. Representatives visit schools, juvenile prisons and other groups in society, warning young people about the dangers of prostitution and of the techniques that recruiters use to get the children involved.

120. Girls are most commonly seduced into prostitution by a lover, but boys are used to get other boys involved, usually through stories of the money that can be made by such activity. The Special Rapporteur was advised that male entry into prostitution was more organized, with several individuals working to coerce the boy, whereas usually just one man would coerce a girl into these activities.

121. Non-governmental sources reported that most of the boys have the same background of physical and sexual abuse, and many doubt their own sexuality. Virtually all are in drug-related activities.

122. In Amsterdam and Rotterdam there are brothels for boys, with an estimated 1,000 boys under 18 involved in Amsterdam alone. Around the Central Station in Amsterdam, boys can be seen working independently; they are most commonly of eastern European origin. The boys who operate alone have more control over the prostitution than those who work in a brothel. Some brothels in Rotterdam, particularly those being serviced by boys, are reported to make pornographic movies, and there are some reports of the existence of snuff movies allegedly made in the Netherlands.

C. Child pornography

123. The Netherlands police have become active in the fight against child pornography and were able to advise the Special Rapporteur as to the nature of the problem in the Netherlands context. As previously stated, there are great concerns that many of the children who disappear each year fall victim to paedophile rings, which use them in the production of pornography. The police reported that up to 50 per cent of men involved in pornography in Amsterdam are either British or from the United States, and that those from the United States are more interested in girls, whereas British and Dutch abusers prefer boys. The Special Rapporteur was not advised as to the involvement of women in the procurement of children or the production or distribution of pornography.

124. These findings have assisted the police in their investigations into cases of child pornography, which have increased since 1994, when a particularly large collection of pornographic video tapes, almost exclusively of boys, was discovered following undercover investigations by the Intelligence Service. At that time, the police reviewed older cases of child pornography, many of which had not led to a criminal investigation. These cases and subsequent discoveries have resulted in the identification of many victims and suspected paedophiles. Some children have been rescued and arrests have been made.

125. From a previously very liberal attitude towards all forms of pornography, the Government of the Netherlands has in recent years taken steps to bring its legislation into line with the growing international consensus condemning pornography which involves children (see sect. VII, below).

126. The Government has also introduced a number of measures to supplement the revised legislation, including the creation of a monitoring group which attempts to track pornographic sites on the Internet that portray children. At the time of the Special Rapporteur's visit, 30 cases where individuals had allegedly posted such sites on the Internet were being investigated. However, these and other similar cases had led to some problems with the Internet services providers (ISPs), who were very reluctant to give out the names of people who were using their services. An agreement was reached between the ISPs and the Ministry of Foreign Affairs that when the Public Prosecutor receives a case from the police and decides to investigate, he will write to the ISP who is then obliged "voluntarily" to give this information.

127. The Minister for Foreign Affairs advised the Special Rapporteur that he is trying to promote the idea of the public participating in removing pornographic material involving minors from the Internet, through measures of "self-regulation", rather than by introducing measures of governmental regulation which might have the effect of generating a conflict with individuals' freedom of expression.

128. A telephone hotline has been set up to report findings of child pornography and to give ISPs the opportunity to warn the person concerned that he or she has to stop posting such material or he or she will be reported. In 90 per cent of the cases, it has been found that those responsible do stop. However, concerns were expressed that perhaps as many as one third of callers were making false accusations concerning the identity of the person responsible for posting the material.

129. The Government of the Netherlands has recognized that the nature of the problem calls for an international response. Images transported through the Internet travel through many countries and it is very difficult to know whether the police in another country are already investigating a case. The Netherlands has set up a database, storing digital images from the Internet along with information as to their location, and has started to exchange information with other countries, initially with Denmark and Sweden.

130. Whilst the Special Rapporteur greatly welcomes the attention that is being focused on removing such sites from the Internet, of greater concern is the extent of the abuse that many children are suffering in the creation of such material. She believes that many missing children are being sexually abused and tortured in this process and that measures to ensure that the documentation of their suffering does not become public should be secondary to measures to prevent such abuse ever taking place.

VII. THE LEGAL FRAMEWORK

131. The Convention on the Rights of the Child entered into force for the Netherlands in 1995 and the initial report was submitted to the Committee on the Rights of the Child in 1997.[8] In its concluding observations[9] on the report, the Committee expressed its appreciation of the commitment and efforts of the State party in achieving a commendable degree of enjoyment of the rights of children within the State party through the establishment of comprehensive policies,

legislation, administrative and other measures. In particular, the Committee commended the State party's efforts to combat the phenomenon of child-sex tourism, and welcomed the recent efforts to establish a network of child abuse reporting and counselling centres.

132. The Committee expressed concerns that information and awareness-raising activities regarding the Convention were not being undertaken on an ongoing basis, and recommended that the State party develop systematic training programmes on the provisions of the Convention for all professional groups working for and with children, such as judges, lawyers, law enforcement officials and civil servants.

133. Offences against children are penalized in the Criminal Code. Article 244 provides that "The commission with a person under the age of 12 years of acts consisting or partly consisting in the sexual penetration of that person's body carries a term of imprisonment not exceeding 12 years." However, where the child is aged between 12 and 16 years, a prosecution may be brought only if the victim, the legal representative of the victim or the child-care authorities has filed a complaint.[10]

134. The Criminal Code penalizes a number of activities relating to the involvement of children in commercial sexual exploitation, including intentionally inducing a minor of unimpeachable conduct to commit indecent acts (art. 248); having sexual intercourse with a minor who is under the authority of the offender or has been entrusted to the offender for the purpose of care, education or vigilance (art. 249); intentionally procuring or inducing the commission of sexual intercourse by a minor entrusted to the care of the offender, or by a minor whom the offender knew or should have known to be a minor (art. 250).

135. Sexual intercourse with a person aged between 16 and 18 years is not a criminal offence, providing that violence, coercion, deception or a relationship of dependence are not involved. Prostitution is not in itself a criminal offence.

136. In its report to the Committee on the Rights of the Child, the Government of the Netherlands explained that the requirement that a complaint must be filed in the case of certain offences against children aged between 12 and 16 years of age in order for them to be treated as offences had arisen out of a desire to achieve a balance between protecting children from sexual abuse and protecting the sexual freedom of children from government interference. However, fears that this requirement posed an obstacle to the effective combating of the sexual abuse of children, including child prostitution and sex tourism, had led to a government study being initiated in 1996, to look into the functioning of this requirement and to see whether its objective could equally well be achieved by the pursuance of a sensible policy on the investigation and prosecution of sexual offences, and, as a starting point, whether the minimum age for the "complaint requirement" should be raised from 12 to 14.

137. The Special Rapporteur shares the concerns of the Committee that the "complaint requirement" unduly limits protection of children from abuse. She welcomes the consideration that is now being given to amending this requirement.

138. Article 240b of the Criminal Code was amended on 1 February 1996 to increase the effectiveness of measures to combat child pornography. Any person involved in a range of

activities involving a person who has clearly not yet reached the age of 16 years, inter alia the production, distribution and exhibition of any pictorial representation of a sexual act commits a criminal offence. Prosecutions focus especially on the commercial and professional elements of this trade, and guidelines have been issued by the procurators-general (senior prosecutors) to the police and Public Prosecutions Service for use in the investigation and prosecution of cases involving child pornography. However, the "complaint requirement" in effect permits adults to induce children over the age of 12 to participate in the production of pornographic shows or material.

139. The Special Rapporteur regrets that despite these welcome amendments to increase the protection of children against this form of exploitation, the possession of child pornography has not been criminalized. Furthermore, in November 1996, the Government of the Netherlands prevented the adoption of two major proposals, initiated by Belgium and supported by most of the other member States of the European Union (EU), for stronger measures to combat pornography involving children, including making it a criminal offence to possess such material for "personal ends". The EU justice ministers agreed to impose minimum penalties relating to child pornography, but the Special Rapporteur regrets that the Netherlands stood in the way of the enactment of stronger measures at that time.

VIII. THE CRIMINAL JUSTICE SYSTEM

140. The Special Rapporteur visited the Juvenile Advice Squad at the Amsterdam Police Headquarters and particularly appreciated the very open and frank dialogue that she was able to have with officers of the Squad.

141. The Juvenile Advice Squad advised the Special Rapporteur that, since the Dutroux affair, victims have become more aware that they have a remedy. It was previously difficult for the police to get children, especially boys, or adults acting on their behalf, to file a complaint, but now people have more confidence to seek a judicial remedy. On average, two reports of rape are received every day, and there has been an increase in the reporting of cases of sexual abuse of minors under 12 within the family.

142. When such cases are reported, they are referred directly to the Juvenile Advice Squad, whose officers are specially trained to deal with crimes against children and to help child victims in the legal system. The officers receive very thorough training and learn how to interview children by asking open questions and playing a supporting role. The interviews with children take place in a room full of toys, to help them to relax and feel confident with the officer who is questioning them. The children only tell their story once and the interview is videoed for use during the trial.

IX. CONCLUSIONS AND RECOMMENDATIONS

143. The situation of commercial sexual exploitation of children in both Belgium and the Netherlands follows a similar pattern to that observed in other developed countries, but is very different to the pattern observed in the developing world. Children in these two countries do not enter prostitution as a result of dire poverty and as a last resort for survival, but as an escape

from violence, abuse and neglect in their homes. Of particular concern is the extent to which the system of protection for refugees is being abused, with the result that children are being trafficked into both countries - but especially Belgium - for prostitution and other purposes.

144. The monitoring of children involved in prostitution and/or pornography is extremely difficult given that these activities are rarely conducted in brothels, bars or from the streets, but behind closed doors. Children are unlikely to seek help or make complaints to the authorities because they usually consider that they are in the trade of their own volition and they are often plagued by guilt in this respect.

145. The Special Rapporteur is very disturbed by the indications, arising out of the Dutroux affair, that one or several dangerous networks of paedophiles are operating in northern Europe, kidnapping, raping and sometimes murdering children. Even children from the most secure and protective families could potentially be at risk. The Special Rapporteur would strongly urge greater vigilance by all sectors of society in this regard.

146. The Special Rapporteur would like to make the following recommendations:

(a) Immediate response mechanisms should be established for children who are entering Belgium or the Netherlands either as refugees or as victims of traffickers. The Special Rapporteur is quite disturbed by the reported number of unaccompanied children who by some means are able to come to Belgium, especially. She recognizes the complexity of the problem particularly with respect to children who appear to be unaccompanied by any adults. Measures should be initiated to ensure that children are not subjected to revictimization in the process of ascertainment of their status;

(b) The establishment of a reception centre would enable the immediate needs and safety of unaccompanied minors to be attended to without any delay, even prior to the determination of the administrative and/or legal procedures that have to be followed. Such a centre should be established solely for this purpose and should not house other children who have been found to have violated the law;

(c) There is urgent need to establish bilateral or multilateral collaborative arrangements with neighbouring countries on the issue of trafficking of children by organized networks;

(d) The rules and policies on asylum should be reviewed and amended to facilitate rapid determination of the status of unaccompanied children;

(e) There is a need for awareness-raising programmes and initiatives on the rights of children under the Convention on the Rights of the Child, particularly their right to be protected from sexual exploitation of any kind;

(f) Training programmes for all professionals working in the criminal justice system should be a continuous occurrence in order to promote more aggressive action against child abusers and a more compassionate approach to child victims.

(g) The involvement of children, especially boys, in the production of pornography is of serious concern. Studies on the methods of recruitment, on the venues of operation, on the impact and adverse effects of the abuse, and on approaches to healing and recovery, as well as other pertinent factors, must be conducted so that gender desegregated initiatives can be established. Similarly, the proliferation of pornographic materials involving children must be addressed. The access of children to viewing any pornographic materials should likewise be restricted.

(h) Children are almost always the first to suffer when there is any kind of discrimination. Intensive campaigns through education, both formal and informal, should be conducted aimed at eliminating discrimination, particularly against children. Children should never lose out on protective programmes simply because they are "only Gypsies".

(i) The Governments should support all initiatives aimed at deterring their nationals from exploiting children, whether in the country or abroad. The Special Rapporteur welcomes the introduction in Belgium of the law on extra-territoriality with respect to child abuse, but considers that this should be coupled with a massive media campaign aimed at sensitizing the general public to the right of children to be protected against any kind of sexual exploitation.

(j) To combat the growing phenomenon of gambling addiction among children and in view of the fact that it is established as one of the causes of the involvement of children, especially boys, in prostitution, a strict ban on children under 18 years of age in casinos or places where gambling machines are available should be enforced. Video and amusement arcades should likewise be regularly monitored to make sure that no betting occurs there among children.

(k) Non-commercial sexual abuse merits urgent attention, especially when perpetrated in the context of the family. Incest and other types of domestic violence, abuse and neglect should be examined in relation to the age and sex of the victim.

(l) The curtailment of drug, alcohol and other types of substance abuse by children should be a high priority for the Government. Clinics and other medical facilities should encourage children to come for treatment and rehabilitation. In this respect, it is important that this assistance be made available to all needy children, regardless of the legitimacy or otherwise of their presence in the country.

(m) The Governments of both the Netherlands and Belgium are to be commended for the legislative changes which have been made in the past few years, but these changes must be accompanied by practical and administrative measures to ensure the protection of children.

Notes

[1] At the time of the submission of this report, December 1999, the trial of Marc Dutroux is still pending.

[2] E/CN.4/1999/71.

[3] Office of the United Nations High Commissioner for Refugees, Guidelines on Policies and Procedures in dealing with Unaccompanied Children seeking Asylum, para. 9.4.

[4] CRC/C/11/Add.4.

[5] See Section II, Legal framework, para. 50.

[6] The only information that the Special Rapporteur received relating to the sale of children which did not involve sexual exploitation were allegations that babies being brought illegally from Latin American countries, mainly Guatemala, for the purposes of adoption by European parents, arrived in Amsterdam prior to travelling to their final destination. For further details, see the report on the Special Rapporteur's mission to Guatemala (E/CN.4/2000/73/Add.2).

[7] Information from Mr. Nick Davies, a journalist, and Mr. Raphael Beth, a child psychologist.

[8] CRC/C/51/Add.1.

[9] CRC/C/15/Add.114.

[10] Criminal Code, article 245.

Annex

SELECTIVE LIST OF PERSONS AND ORGANIZATIONS CONSULTED BY THE SPECIAL RAPPORTEUR DURING HER MISSION

Belgium

Ms. Kathy Lindekins, Member of the Flemish Parliament

Mr. Erik Derycke, Minister for Foreign Affairs

Mr. Eric Mannens, Collaborator of the United Nations and Human Rights Desk, Ministry of Foreign Affairs

Mr. Michael Goblet d'Alviella, Head of the Human Rights Desk, Ministry of Foreign Affairs

Mr. Guy Van Glabeke, Collaborator of the Human Rights Desk

Ms. Colette Taquet, Adviser to the Minister for Foreign Affairs

Mr. Jean-Claude Couvreur, Adviser, Human Rights Service, Ministry of Foreign Affairs

Ms. Tina Scholiers, Junior Adviser, Service for International Legal Cooperation, Ministry of Foreign Affairs

Mr. Witters, Pag-Asa

Mrs. Lieve Stappers, Director, Child Focus

Mrs. De Schriver, Head of "Case Management", Child Focus

Mr. Reginald Moreels, State Secretary for Development Cooperation

Mr. Tony Van Parys, Minister of Justice

Mr. Jan Lathouwers, Head of the Human Rights and Criminal Law Desk, Ministry of Justice

Ms. Sophie Jekeler-Wirtz, Director, Mouvement du Nid, Coordinator, Global Network to End Child Prostitution, Child Pornography and Trafficking (ECPAT) Belgium

Mr. Luc de Smet, General Commissioner for Refugees

Mr. Marc Verwilghen, President, Commission of Justice

Mrs. Debotte, Secretary, Commission of Justice

Mr. Paul Nijs, Coordinator, Centre for Equal Opportunities and Opposition to Racism

Mr. Luc Martens, Flemish Minister for Social Welfare and Culture

Mr. Teugels, Director, Adzon

Mr. Serge Brammertz, National Magistrate

Mr. Andre van Doren, National Magistrate

Mr. Claude Lelievre, Commissioner for Children Rights, French-speaking Community

Netherlands

Mr. Karel de Vey-Mestdagh, Deputy Director, Human Rights Division, Ministry of Foreign Affairs

Ms. Andrea Nederlof, Social Policy Division, Ministry of Foreign Affairs

Ms. Maarit van Zomeren, United Nations Division, Ministry of Foreign Affairs

Mr. H. Avan de Stolpe, Legislation Division, Ministry of Justice

Mr. J.E. Doek, Professor of Civil, Family and Juvenile law, Amsterdam Free University

Mr. Wim Slootweg, Director, UNICEF, Netherlands

Ms. Maud Drooglever-Fortuin, UNICEF, Netherlands

Ms. Marjorie Kaandorp, Defence for Children International

Mr. Theo Noten, Retour Foundation

Ms. Lisette van Gurp, Transact

Ms. Lillian Peters, Kinderen in de Knel

Mr. Nico Tettero, Stichting Kinderpostzegels Netherlands

Ms. Jacqueline de Savornin-Lohman, Professor at University of Amsterdam

Dr. Rob Bilo, Advice Centre on Child Abuse

Ms. Marioanne Rauhe, Independent Adviser, Youth Services

Ms. Marieke Kamerbeek, "Pretty Woman" Project on girls', prostitution

Mr. Kapsenberg, Deputy Superintendent, Amsterdam Police

Mr. J. Hoek, Project Manager, Amsterdam Juvenile Advice Squad

Mr. Ras, Director, Amsterdam Juvenile Advice Squad